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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,043	02/02/2006	Francesco Gallo	DE030281	2385

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

WENDELL, ANDREW

ART UNIT	PAPER NUMBER
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2618

MAIL DATE	DELIVERY MODE
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10/22/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/567,043

Applicant(s)

GALLO, FRANCESCO

Examiner

Andrew Wendell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. It is noted that this application appears to claim subject matter disclosed in prior Application No. 03102496.1 and PCT/IB04/51354, filed 8/11/2003 and 8/2/2004. A reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e), 120, 121, or 365(c). See 37 CFR 1.78(a). For benefit claims under 35 U.S.C. 120, 121, or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all nonprovisional applications. If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of

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such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

Drawings

2. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 10 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 10 is drawn to a "program" per se as recited in the preamble and as such is non-statutory subject matter. See MPEP 2106.IV.B.1.a. Data structures not claimed as embodied in computer readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claim aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed computer readable

medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. Similarly, computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawamura (US Pat Pub# 2004/0048569) in view of Bell (US Pat# 6,405,027).

Regarding claim 1, Kawamura teaches at least one master unit 11 (Fig. 1) and at least one slave unit 12 and 13 (Fig. 1), which master unit 11 (Fig. 2) comprises a processor system 11D (Fig. 2) with a user interface application 11C (Fig. 2); a profile application (83,84); and a manager application 11D (Fig. 2) for--providing an interface to the user interface application 11C (Fig. 2 and Section 0094); managing the profile application (obvious there is a profile in order to communicate with the slave devices);

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and --searching for and retrieving information from one or more slave units SDP (Fig. 3 and Section 0094). Kawamura fails to clearly teach a profile application.

Bell teaches a profile application and managing the profile application ("Bluetooth Intercom profile" Col. 3 lines 1-22 and Col. 4 lines 4-49).

Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art at the time the invention was made to incorporate a profile application as taught by Bell into Kawamura's system in order to improve a group call function (Col. 1 lines 31-51).

Regarding claim 2, the combination including Kawamura teaches a headset profile application ("Headphone" Fig. 1 and 2), with the manager application being adapted to set up and finish a connection with a slave unit (Sections 0088-0104).

Regarding claim 3, the combination including Bell teaches wherein the profile application comprises an intercom profile application, with the manager application being adapted to set up and finish a connection with a slave unit comprising an intercom ("Bluetooth Intercom profile" Col. 3 lines 1-22 and Col. 4 lines 4-49).

Regarding claim 4, the combination including Kawamura teaches wherein the manager application is further adapted to join the headset profile application (Fig. 1 and 2). Kawamura fails to teach an intercom profile application.

Bell teaches an intercom profile application ("Bluetooth Intercom profile" Col. 3 lines 1-22 and Col. 4 lines 4-49).

Regarding claim 7, system claim 7 is rejected for the same reason as system claim 1 since the recited elements would perform the claimed steps.

Regarding claim 8, system claim 8 is rejected for the same reason as system claim 1 since the recited elements would perform the claimed steps.

Regarding claim 9, method claim 9 is rejected for the same reason as system claim 1 since the recited elements would perform the claimed steps.

Regarding claim 10, processor program claim 10 is rejected for the same reason as system claim 1 since the recited elements would perform the claimed steps.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kawamura (US Pat Pub# 2004/0048569) in view of Bell (US Pat# 6,405,027) and further in view of Heinonen et.al. (US Pat Pub# 2004/0209569).

Regarding claim 5, Kawamura in view of Bell teach the limitations in claim 1. Kawamura and Bell fail to teach an idle state, search state, and connection request state.

Heinonen teaches wherein a state machine comprising an idle state 404 (Fig. 4), a search state 406 (Fig. 4), a connection request state 412 (Fig. 4) and a connection respond state 412 (Fig. 4 and Section 0014).

Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art at the time the invention was made to incorporate an idle state, search state, and connection request state as taught by Heinonen into a profile application as taught by Bell into Kawamura's system in order to improve short range communication (Section 0013).

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7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kawamura (US Pat Pub# 2004/0048569) in view of Bell (US Pat# 6,405,027) and further in view of Oba et al. (US Pat Pub# 2004/0259499).

Regarding claim 6, Kawamura in view of Bell teach the limitations in claim 1. Kawamura and Bell fail to teach a two selection buttons and one or more arrow buttons.

Oba teaches wherein the master unit 51 (Fig. 6) comprises a man-machine-interface with at least two selection buttons and one or more arrow buttons (Fig. 6).

Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art at the time the invention was made to incorporate a two selection buttons and one or more arrow buttons as taught by Oba into a profile application as taught by Bell into Kawamura's system in order to start communication more easily and quickly using Bluetooth (Section 0055).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Wendell whose telephone number is 571-272-0557. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

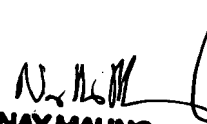
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Andrew Wendell
Examiner
Art Unit 2618

10/10/2007



NAY MAUNG
SUPERVISORY PATENT EXAMINER